

GARVEY, BALLOU

A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW
PO Box 730
Allenwood, NJ 08720
(732) 341-1212

Attorneys for defendant, Costco Wholesale Corporation

Our File No. 131.25684 - RAB/dg

Attorney ID#: 017381982

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DOCKET NO. MER-L-001274-22

Civil Action

Maria Gaudioso, individually

Plaintiff(s),

vs.

NOTICE TO ADVERSARY OF REMOVAL OF
ACTION

Costco Wholesale Corporation,
an entity, John and Jane Does
(1-10) fictitious entities,
ABC Cos (1-5), fictitious
entities

Defendant(s)

TO: Law Office of Marc Portlock, Esq
4436 Route 27
PO box 462
Kingston NJ 08528

Sir/Madam:

PLEASE TAKE NOTICE that in the above-entitled action, defendant, Costco Wholesale Corporation, have this day filed a Notice of Removal, a copy of which is attached hereto, in the Office of the Clerk of the United States District Court for the District of New Jersey. You are also advised that the defendant, upon filing of said Notice of Removal, filed a copy of the Notice with the Clerk of the Superior Court of New Jersey, Law Division, Middlesex County, which has effected this removal, in accordance with 28 U.S.C. § 1446 (B).

GARVEY BALLOU

BY: /s/ Robert A. Ballou, Jr.
ROBERT A. BALLOU, JR
Attorneys for Defendant
Costco Wholesale Corporation

DATED: August 9, 2022

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Civil Action

NOTICE OF REMOVAL

Notice of Removal of State Court Action to U.S. District Court

PLEASE TAKE NOTICE that defendant Costco Wholesale Corporation ("Costco"), through its undersigned counsel, hereby files this Notice of Removal pursuant to 28 U.S.C. §1446. Costco hereby removes to the District Court of New Jersey all claims and causes of action in the civil action **Maria Gaudioso, individually vs. Costco Wholesale Corporation, Docket No. MER-L-001274-22**, now pending in the Superior Court of New Jersey, Law Division, Mercer County (the "State Court Action").

The grounds for removal are as follows:

28 U.S.C. § 1446

1. On April 16, 2021, plaintiff, residing in Somerset County, New Jersey, filed a Complaint in the Superior Court, Law Division, Mercer County against Costco Wholesale Corporation asserting a claim under State Law.

2. This Notice of Removal is filed in the United States District Court for the District of New Jersey, the District Court of the United States for the District and Division within which the State Action is pending. 28 U.S.C. § 1446(a); 1441(a).

3. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure. 28 U.S.C. § 1446(a).

4. Annexed hereto as **Exhibit "A"** is a copy of the Complaint and process served upon the defendant in the State Action. 28 U.S.C. § 1446(a).

5. The Complaint was filed on July 21, 2022, and served upon defendant.

6. As of this date, none of the defendants have filed a responsive pleading in the action commenced by plaintiff in the Superior Court of New Jersey, Law Division, Mercer County, and no other proceedings have transpired in that action.

7. The Complaint arises from the plaintiff's contention that on April 16, 2021, while at Costco Wholesale Store located at 4100 Quakerbridge Road, Lawrence Township, New Jersey, she was hit in the head and face by an LED solar light which fell from the top of a display. She claims personal injuries as a result for which she seeks damages.

8. It is clear the amount in controversy will exceed \$75,000. In that regard, this factor for removal is based upon allegations in the Complaint as to the plaintiffs' injuries as noted above.

9. As of the filing of this Notice of Removal, the undersigned has no knowledge that any other defendant has been successfully served pursuant to 28 U.S.C. § 1446(b)(2)(A) and therefore cannot and need not obtain consent of the other named defendant.

10. This Notice is now filed with the Court on August 10, 2022, within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, and within one (1) year of commencement of the State Action. 28 U.S.C. § 1446(b).

11. Annexed hereto as **Exhibit "B"** is the Notice to the Clerk of the Superior Court Mercer County of Removal of Action to the United States District Court with regard to the State Action, which will be filed with the Clerk upon return of this Notice of Removal stamped "received". 28 U.S.C. § 1446(d).

12. Annexed hereto as **Exhibit "C"** is the Notice to Adversary of Removal of Action, which will be served promptly upon return of this Notice of Removal stamped "received". 28 U.S.C. § 1446(d).

28 U.S.C. § 1441

13. This Notice of Removal is filed in the District of New Jersey, the District Court of the United States for the District and Division embracing the place where the State Action is pending. 28 U.S.C. § 1441(a); 1446(a).

14. The plaintiff is a citizen of the State of New Jersey, residing in Somerset County, New Jersey.

15. Defendant, Costco is a citizen of Washington where it was incorporated and where it has its principle place of business with corporate headquarters located at 999 Lake Dr., Issaquah, Washington 98027.

16. The State Action is a Civil Action of which District Courts of the United States have original jurisdiction by virtue of a claim where the matter in controversy exceeds the sum or value of Seventy Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs and is between citizens of different states. 28 U.S.C. § 1332(a).

17. Since our original filing, I have spoken with plaintiff's attorney, Marc Portlock, Esquire, following-up on my Request for Statement of Damages. He has advised that this case does have a value in excess of \$75,000.00. Based upon the foregoing, he was unable to stipulate plaintiff's damages in an amount below \$75,000.00.

WHEREFORE, please take notice that this cause should proceed in the United States District Court for the District of New Jersey, as an action properly removed thereto.

GARVEY BALLOU

BY: /s/ Robert A. Ballou, Jr.
ROBERT A. BALLOU, JR
Attorneys for Defendant
Costco Wholesale Corporation

Dated: August 10, 2022

GARVEY, BALLOU

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DOCKET NO. MER-L-001274-22

Civil Action

**NOTICE TO THE CLERK OF THE SUPERIOR
COURT MERCER COUNTY OF REMOVAL OF
ACTION TO THE UNITED STATES DISTRICT
COURT**

TO: Superior Court of New Jersey
Mercer County
175 South Broad Street
Trenton, NJ 08650

Sir/Madam:

PLEASE TAKE NOTICE that attached hereto is a copy of a Notice of Removal of this case, which has been filed with the Clerk of the United States District Court for the District of New Jersey, removing this action to federal court.

GARVEY BALLOU

BY: /s/ Robert A. Ballou, Jr.

ROBERT A. BALLOU, JR
Attorneys for Defendant
Costco Wholesale Corporation

Dated: August 10, 2022